

MELINDA HAAG (CSBN 132612)
United States Attorney

MIRANDA KANE (CSBN 150630)
Chief, Criminal Division

DAVID B. COUNTRYMAN (CSBN 226995)
Assistant United States Attorney

450 Golden Gate Avenue, 11th Floor
San Francisco, CA 94102
Telephone: 415.436.7303
Facsimile: 415.436.7234
Email: david.countryman@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	No. CV 09-2308 WHA
Plaintiff,)	
)	
v.)	JOINT REQUEST FOR TEMPORARY
)	ADMINISTRATIVE CLOSURE;
APPROXIMATELY \$8,800 IN)	PROPOSED ORDER
AMERICAN EXPRESS TRAVELERS')	
CHECKS; AND ONE PENTAX 35mm)	
CAMERA, SERIAL NUMBER 1318242)	
)	
Defendant.)	

Plaintiff United States and claimant Gary Hardeman (collectively the "parties") requests that the above-referenced civil forfeiture case be "administratively closed" for purposes of the Civil Justice Reform Act reporting requirements pending the completion of the related criminal prosecution.

///

///

///

///

1 The effect of an administrative closure is no different from a simple stay, except that
2 it affects the count of active cases pending on the court's docket; i.e., administratively
3 closed cases are not counted as active. See Lehman v. Revolution Portfolio LLC, 166
4 F.3d 389, 392 (1st Cir. 1999) ("This method is used in various districts throughout
5 the nation in order to shelve pending, but dormant, cases.") In contrast, cases stayed,
6 but not closed, are counted as active. This case still exists on the docket of the district
7 court and may be reopened upon request of the parties or on the court's own motion.

8 Mire v. Full Spectrum Lending Inc., 389 F.3d 163, 167 (5th Cir. 2004); see also 18 U.S.C. §
9 981(g)(1); The Guide to Judiciary Policies & Procedures, Vol. 11, Chapter 14, Exhibit 1 (a copy
10 of which is attached hereto).

11 The parties submit that the record of this case provides facts sufficient to support
12 administrative closure. On November 30, 2008, Gary Hardeman was arrested at the San
13 Francisco International Airport after boarding a flight to Mexico. Among his belongings, agents
14 found and seized the defendant property. Hardeman was arrested on an outstanding warrant for
15 failing to register as a sex offender, and charges are currently pending in San Francisco County
16 Superior Court. Hardeman was also arrested for Engaging in Illicit Sexual Conduct in Foreign
17 Places, and charges are currently pending in the federal District Court for the Northern District
18 of California. On January 5, 2011, Court stayed the instant civil forfeiture case until April 7,
19 2011, due to claimant's pending criminal prosecution: United States v. Hardeman, 10-cr-00859
20 RS. On October 20, 2011, the United States filed Notice of Appeal of the District Court's
21 dismissal of Count Two of the Indictment (Docket No. 79), and on October 21, 2011 the Court
22 vacated the trial and pre-trial dates. Docket No. 82. On January 14, 2012, the Ninth Circuit
23 reversed the district court's dismissal of Count Two and remanded for further proceedings.
24 Claimant's criminal cases are still ongoing, and the parties have already respectfully requested
25 an additional stay of this case, so as not to raise the risk of self-incrimination or adversely affect
26 the ability of the government to prosecute the related criminal cases.

27 ///

28 ///

1 Thus, because the criminal case is currently pending, the parties respectively request that
2 this civil forfeiture case be administratively closed for purposes of the Civil Justice Reform Act
3 reporting requirements pending the completion of the related criminal prosecution.
4

5 Dated: 01/15/13

6 /S/ Daniel Paul Blank
7 DANIEL PAUL BLANK
8 Attorney for Claimant

9 Dated: 01/15/13

10 /S/ David B. Countryman
11 DAVID B. COUNTRYMAN
12 Assistant United States Attorney
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**~~[PROPOSED]~~ ORDER TEMPORARILY
ADMINISTRATIVELY CLOSING CASE**


UPON CONSIDERATION of the parties Request for Temporary Administrative Closure, the entire record, and for good cause shown, it is by the Court on this 15 day of January, 2013

ORDERED that the instant case be, and hereby is ADMINISTRATIVELY CLOSED for purposes of the Civil Justice Reform Act reporting requirements, until the resolution of United States v. Hardeman, 10-cr-00859 RS;

IT IS FURTHER ORDERED this case still exists on the docket of the district court and may be reopened upon request of the United States or Cary Hardeman or on the court's own motion.

IT IS SO ORDERED.

DATED: 1/15/13



WILLIAM ALSUP
United States District Judge